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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/611,319	07/01/2003	Peter Schlaak	6741P006	4019
32864	7590	01/19/2007	EXAMINER	
FISH & RICHARDSON, P.C. PO BOX 1022 MINNEAPOLIS, MN 55440-1022			ADE, OGER GARCIA	
		ART UNIT	PAPER NUMBER	
		3627		
SHORTENED STATUTORY PERIOD OF RESPONSE*	MAIL DATE	DELIVERY MODE		
3 MONTHS	01/19/2007	PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/611,319	SCHLAAK ET AL.	
	Examiner Garcia Ade	Art Unit 3627	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 24 October 2006.

2a) This action is **FINAL**.                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-30 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) \_\_\_\_\_ is/are rejected.

7) Claim(s) 1-30 is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_

4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date \_\_\_\_\_

5) Notice of Informal Patent Application

6) Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Amendment***

1. The amended filed on October 24<sup>th</sup>, 2006 under 37 CFR 1.131 has been considered but is ineffective to overcome the Tsukuda and Holland references.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1 - 7, 11 - 17, and 21 - 27 are rejected under 35 U.S.C. 102(b) as being anticipated by Tsukuda [US 6,085,170].

**As per claims 1, 3, 6, 11, 13, 21, and 23**, Tsukuda discloses a method for use in managing a supply chain multiple customers, comprising: receiving a new delivery schedule from a customer [see abstract and flowchart of figure 1 (e.g. block 102)]; determined a deviation between the new delivery schedule and a confirmed delivery schedule from the customer [see column 4, lines 3 - 9 (e.g. differences from various view points, such as from a view point of the distributor, a view point of the agent, and a view point of the purchaser), figure 3, and see column 5, lines 49 - 67]; and determining if the new schedule is eligible for further consideration based on the deviation [see column 9, lines 56 - 63 (e.g. the delivery goods information is constructed by further **adding items or columns "size(s)"**)]

and "**necessity of refrigeration of the goods**); generating a schedule of production resources and inventory that satisfies at least some requirement of the new delivery schedule [see abstract, and via step 101 (e.g. list of a **schedule for delivery** by using the delivery information 121)]; and confirm to the customer that the supplier accepts the new delivery schedule [via step 1907 (e.g. **confirming the existence of the scheduled**)].

**As per claims 2, 12, and 22**, Tsukuda discloses: generating comprises updating an existing schedule of production resource [see abstract, and see column 2, lines 41 - 47].

**As per claims 4, 14, and 24**, Tsukuda discloses: determining the deviation comprises comparing items from the new delivery schedule to item from the confirmed delivery schedule [see column 7, lines 4 - 15 (e.g. comparing the purchased goods information through the network and that inputted through the input apparatus), and see claim 3].

**As per claims 5, 15, and 25**, Tsukuda discloses the items comprise quantities of goods to be delivered at specified dates [column 2, lines 17 - 25 (e.g. **desired date and time** for the delivery service)].

**As per claims 6, 16, and 26**, Tsukuda discloses: the deviation is indicative of an error if the deviation exceeds a predetermined tolerance [see figure 14].

**As per claims 7, 17, and 27**, Tsukuda discloses: prompting a user for input if the deviation exceeds the predetermined tolerance [see figure 2 (e.g. **input device**)]; determining if the new delivery schedule is eligible for further

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consideration is based, at least in part, on the user input [see figure 3, and see column 7, lines 10 - 15].

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 8 – 10, 18 – 20, and 28 - 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tsukuda, and further in view of Holland et al. [US 2002/0143605].

**As per claims 8 – 10, 18 – 20, and 28 - 30,** Tsukuda discloses all elements per claimed invention as explained above. Tsukuda does not explicitly disclose: the new delivery schedule comprises a forecast of delivery requirements, a long term forecast, and allocating resources based on the schedule of production resources.

However, Holland discloses: the new delivery schedule comprises a forecast of delivery requirements, a long term forecast [see paragraph 0033 (e.g. **forecasts delivery schedules**), and paragraph 0047 (e.g. **week 5 represent forecasted deliveries to be made**)], and allocating resources based on the schedule of production resources [see paragraphs 0010, 0033, and 0050].

Therefore, it would be obvious to one of ordinary skill in the art at the time the invention was made to modify Tsukuda's invention to include Holland's

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forecasting method, and allocation resources. The motivation to combine would provide a method and apparatus for a plurality of businesses to manage supply and demand of critical business resources [see paragraph 0011].

***Response to Arguments***

6. Applicant's arguments filed on October 24<sup>th</sup>, 2006 have been fully considered but they are not persuasive.

A) Applicants argue with respect to independent claims 1, 11, and 21 that Tsukuda does not disclose or suggest "determined a deviation between the new delivery schedule and a confirmed delivery schedule from the customer"; "determining if the new schedule is eligible for further consideration"; "and generating a schedule of production resources and inventory that satisfies at least some requirement of the new delivery schedule". The Examiner respectfully disagrees. Tsukuda discloses means for determining the date and time for delivery of the delivery goods and also means for notifying of arrival and/or departure of the goods to and/or from and agent to at least one of the distribution server. In accordance with Tsukuda's invention, it is provided means for determining scheduled date and time for delivery of the purchased commodities or goods, from a schedule information of a delivery information of each area of the distributor and a schedule information of the purchaser.

Tsukuda describes in figure 14 if new schedule is eligible for further consideration. The delivery goods information in figure 14 is constructed by further adding items or columns "size(s)" and "necessity of refrigeration of the goods" to the items of the delivery goods information shown in figure 4.

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Tsukuda further describes in step 101, which is a notification step that generates a list of schedule of production recourses and inventory for delivery by using the delivery information 121 and delivery goods information 122. Therefore, Applicants' arguments are deemed nonpersuasive.

***Conclusion***

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Garcia Ade whose telephone number is 571.272.5586. The examiner can normally be reached on M-F 8:30AM - 5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Florian Zeender can be reached on 571.272.6790. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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9. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Garcia Ade  
Examiner  
Art Unit 3627

ga

  
Andrew Joseph Fruh  
Primary Examiner, AU 3627